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TEXAS INSTRUMENTS INCORPORATED
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OFFICE OF PETITIONS

In re Application of :
Schmidl et al. :
Application No. 09/611,879 : DECISION ON PETITION
Filed: 7 July, 2000 :
Atty Docket No. TI-30718 :

This is a decision on the "Petition to Revive Patent Application" filed on 6 January, 2006,¹ which, in light of petitioners' statement that a response was timely filed, is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

A review of the record reveals that a non-final Office action was mailed on 18 October, 2004. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioners state, in pertinent part:

Applicants, through their Attorney, hereby petition the Assistant Commissioner of Patents to revive the above-identified application.

A timely response to the Office Action mailed on October 18, 2004 was filed on January 27, 2005. Enclosed is a copy of the response and a receipt from the patent and Trademark Office indicating the acceptance of the response.

¹ It is noted that the petition and other papers filed on 6 January, 2006, miscaption the application number as "08/611,879" (emphasis added). The correct application number for this application is Application No. 09/611,879. All future correspondence should reference the correct application number.

Although we do not feel the abandonment was the fault of Texas Instruments, if necessary, please charge the Deposit Account of Texas Instruments Incorporated..., with the amount sufficient to revive the above identified application.

...

At the outset, it is noted that a petition to revive an application for patent must be made on the basis of either unavoidable and/or unintentional delay, pursuant to the provisions of 37 CFR 1.137(a) or (b). Petitioners herein have not averred whether the delay is unintentional and/or unavoidable. As it cannot be determined what type of petition to revive petitioners intended to file, the Office cannot treat the papers filed on 6 January, 2006, as a petition to revive under 37 CFR 1.137(a) or (b). If petitioners desire to revive the application, a petition should be filed under 37 CFR 1.137(a) or (b), accompanied by the proper fee, asserting unintentional and/or unavoidable delay.

A copy of the petition forms is enclosed for petitioners' reference.

In view of petitioners' statement that a response to the outstanding Office action was timely filed, the petition will be treated as a petition to withdraw the holding of abandonment.

In support, petitioners have supplied a copy of an amendment and a one (1) month extension of time. The first page of each document contains a Certificate of Facsimile Transmission dated 27 January, 2005, signed by Tommie Chambers.

Any petition to withdraw the holding of abandonment based on a Certificate of Transmission by facsimile must include the following requirements:

- (1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and
- (2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the **original** response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

The petition lacks item (2) above. Petitioners should supply a statement by the individual who signed the Certificate of Transmission.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**²


Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Mail Stop Petition
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.


Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/61
 PTO/SB/64

² 37 CFR 1.181(f).